

Colorado County - County Clerk

Filed: 4/24/2019 8:53 AM
 Kimberly Menke
 County Clerk
 Colorado County, Texas
 Jessica Rodriguez

No. 11363

IN THE ESTATE OF	§	IN THE COUNTY COURT
	§	
ELMER WAYNE BRUNNER,	§	OF
	§	
DECEASED	§	COLORADO COUNTY, TEXAS

APPLICATION TO PROBATE WILL AND
FOR ISSUANCE OF LETTERS TESTAMENTARY

TO THE HONORABLE JUDGE OF SAID COURT:

Wayne C. Brunner ("Applicant"), furnishes the following information to the Court in support of this Application for the probate of the Will of Elmer Wayne Brunner ("Decedent"), and for issuance of Letters Testamentary:

1. Applicant, Wayne C. Brunner, is an individual interested in this Estate, being domiciled in and residing in Texas. Wayne C. Brunner's address for service of citation is 1303 Kansteiner Rd., Columbus, Texas 78934. The last three digits of the social security number of Wayne C. Brunner are . The last three digits of the driver's license number of Wayne C. Brunner are

2. Decedent died on March 7, 2017, at Hermann Memorial Hospital, Houston, Harris County, Texas, at the age of 89 years. Decedent's domicile at the time of his death was 5636 IH10, Alleyton, Colorado County, Texas. The last three digits of the social security number of Decedent are

3. This Court has jurisdiction and venue is proper because Decedent was domiciled in Texas and had a fixed place of residence in this County on the date of his death.

4. Decedent owned property described generally as real estate, cash, personal effects and household goods of a probable value in excess of \$10,000.00.

5. Decedent left a valid Will dated January 27, 2015, which was never revoked. A true and correct copy of the Will is attached. The Will will be delivered to the County Clerk pursuant to the Texas Rules of Civil Procedure.

6. A necessity exists for the administration of the Estate.

7. After the date of the Will, no child was born to or adopted by Decedent.

8. No marriage of the Decedent was ever dissolved after the will was made.

9. Decedent's Will named Wayne Charles Brunner to serve as Independent Executor to act independently without bond or other security. Wayne Charles Brunner resides in Columbus, Colorado County, Texas. Wayne Charles Brunner is not disqualified by law from serving as such or from accepting Letters Testamentary, and is entitled to such letters.

10. No state, governmental agency of the state, nor charitable organization is named by the Will as a devisee.

11. The Will was made self-proved in the manner prescribed by law and the subscribing witnesses to the Will are Ashley Plut, and Leonard E. Peters.

WHEREFORE, Applicant prays that citation issue as required by law to all persons interested in this Estate; that the Will be admitted to probate; that Letters Testamentary be issued to Wayne Charles Brunner; and that all other Orders be entered as the Court may deem proper.

Respectfully submitted,

PETERS & PETERS LAW FIRM, PLLC

By: 
Leonard E. Peters
State Bar No.: 24002756
leonard@peters-law.com

Michael K. Peters
State Bar No. 24098250
michael@peters-law.com
P.O. Box 247
425 Spring St., Suite 106
Columbus, Texas 78934
Tel: (979) 733-0126
Fax: (979) 732-2783
Attorney for Applicant

LAST WILL AND TESTAMENT

OF

ELMER WAYNE BRUNNER

I, ELMER WAYNE BRUNNER, of Colorado County, Texas, do hereby make, publish and declare this, my Last Will and Testament, hereby revoking all wills and codicils heretofore made by me.

ARTICLE I

1.1 I am not married at the time of the signing of this will, my wife having predeceased me.

1.2 At the time I sign this Will I have three living children namely, WARREN CLIFFORD BRUNNER, WAYNE CHARLES BRUNNER and NANCY CAROL BRUNNER YOUNG.

ARTICLE II

2.1 I direct my Executor to pay all of my just debts, expenses and charges against my estate as soon as practicable after the date of my death with the full right, if necessary and appropriate, to renew and extend in any form deemed best, any debt or charge existing at the time of my death, or to sell any asset necessary to accomplish administration.

ARTICLE III

3.1 I give, devise and bequeath all of my Estate, unto WARREN CLIFFORD BRUNNER, WAYNE CHARLES BRUNNER and NANCY CAROL BRUNNER YOUNG, in equal shares, per stirpes. If any of WARREN CLIFFORD BRUNNER, WAYNE CHARLES BRUNNER or NANCY CAROL BRUNNER YOUNG do not survive me, but leave living descendants, then the share of such deceased of



WARREN CLIFFORD BRUNNER, WAYNE CHARLES BRUNNER or NANCY CAROL BRUNNER YOUNG shall pass to such deceased person's living descendants, in equal shares, per stirpes, but if any of WARREN CLIFFORD BRUNNER, WAYNE CHARLES BRUNNER or NANCY CAROL BRUNNER YOUNG fail to survive me and such deceased of WARREN CLIFFORD BRUNNER, WAYNE CHARLES BRUNNER or NANCY CAROL BRUNNER YOUNG leaves no living descendants, then the share left to such deceased person in this Will shall lapse, and pass to the other of WARREN CLIFFORD BRUNNER, WAYNE CHARLES BRUNNER or NANCY CAROL BRUNNER YOUNG. in equal shares, per stirpes.

3.2 I direct that the personal property in my home shall be divided among WARREN CLIFFORD BRUNNER, WAYNE CHARLES BRUNNER and NANCY CAROL BRUNNER YOUNG in a way that is fair to all of them, such as drawing straws or a similar method.

ARTICLE IV

4.1 I hereby nominate, constitute and appoint WAYNE CHARLES BRUNNER as Independent Executor, without bond, of this my Last Will and Testament. I direct that no action be had in the probate court respecting my estate other than to probate this will and to make, return and record an inventory, any required appraisement, and list of claims of my estate. My personal representative(s) shall have all powers of a trustee, as provided by The Texas Trust Code in addition to all powers and authorities given an executor by law. If WAYNE CHARLES BRUNNER is unable to serve as my Independent Executor for any reason, either initially or during administration of my estate, I appoint STEVEN HOELSCHER to serve as my Independent Executor, without bond.

E.W.B.

4.2 Any person serving as Executor of my estate shall not be precluded from purchasing assets in my estate if the mode and method of such sale allows an equal opportunity to purchase such asset, or if such sale is consented to by all devisees who would have received such asset.

4.3 My Executor shall receive no compensation for acting as executor, but shall be entitled to recover all out-of-pocket costs incurred as executor of my estate.

ARTICLE V

5.1 If any beneficiary of my estate is below the age of eighteen (18) years, then such beneficiary's share of my estate shall be held in trust by my Independent Executor acting as Trustee, without bond, under the terms of the Texas Trust Code. None of the corpus or income of the trust estate shall be assigned or transferred by any beneficiary or reached by any creditor of beneficiary or subject to any legal process to satisfy any debt or liability of any beneficiary. Within 60 days after the eighteenth (18th) birthday of any such beneficiary, the Trustee shall distribute such beneficiary's share of any trust created hereunder to the beneficiary free of trust.

ARTICLE VI

6.1 Where context and circumstances require, the gender of all words used herein shall include the masculine, feminine and neuter, and the singular of all words shall include the plural and the plural shall include the singular.

ARTICLE VII

7.1 If any portion of this Will be held inoperative for any reason, then such portion shall be severed and the remaining provisions shall be preserved to carry out my testamentary intent and directions herein expressed to the extent possible.

ARTICLE VIII

8.1 I vest in my Executor the authority to construe this Will and to resolve all

matters pertaining to disputed issues or controverted claims. I do not want to burden my estate with the cost of a litigated proceeding to resolve questions of law or fact unless that proceeding is originated by my Executor or with the Executor's written permission. Any other person, agency or organization who originates (or who shall cause to be instituted) a judicial proceeding to construe or contest this Will or to resolve any claim or controversy in the nature of reimbursement, constructive or resulting trust or other theory which, if assumed as true, would enlarge (or originate) the claimant's interest in my estate will forfeit any amount to which that person, agency or organization is or may be entitled, and the interest of any such litigant or contestant will pass as if he or she or it had predeceased me. These directions will apply even though the person, agency or organization shall be found by a court of law to have originated the judicial proceeding in good faith and with probable cause, and even though the proceeding may seek nothing more than to construe the application of this no-contest provision.

IN WITNESS WHEREOF, I have signed my name hereto on this the 27 day of January, 2015, in the presence of the undersigned Witnesses, each of whom I have requested to witness the same and they, at my special instance and request, and in my presence, and in the presence of each other, have signed their names as attesting Witnesses.


ELMER WAYNE BRUNNER, Testator

WE, Ashley Plut and Leonard E. Peters on the date shown above, sign our names as Witnesses to the foregoing Last Will and Testament of ELMER WAYNE BRUNNER, Testator, who signed the same in our presence and we, at his request and in his presence, and in the presence of each other, hereby sign as attesting Witnesses.

Ashley Plut
Ashley Plut
425 Spring St.
Columbus, Texas 78934

Leonard E. Peters
Leonard E. Peters
1179 Bus. 71
Columbus, Texas 78934

THE STATE OF TEXAS §
 §
 COUNTY OF COLORADO §

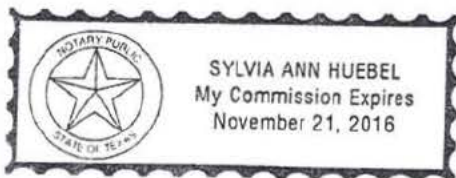
BEFORE ME, the undersigned authority, on this day personally appeared ELMER WAYNE BRUNNER, Testator, Ashley Plut and Leonard E. Peters, known to me to be the Testator and the Witnesses, respectively, whose names are subscribed to the annexed and foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said ELMER WAYNE BRUNNER, Testator, declared to me and to the said Witnesses in my presence that said instrument is his Last Will and Testament, and that he had willingly made and executed it as his free act and deed for the purposes therein expressed; and the said Witnesses, each one stated on oath to me, in the presence and hearing of the Testator that the said Testator had declared to them that said instrument is his Last Will and Testament, and that he executed the same as such and wanted each of them to sign it as a Witness; and upon their oaths the Witnesses stated further that they did sign the same as Witnesses in the presence of the said Testator and at his request; that he was at that time eighteen (18) years of age or over and was of sound mind; and that each of said Witnesses were then at least fourteen (14) years of age.

Elmer Wayne Brunner
 ELMER WAYNE BRUNNER, Testator

Ashley Plut
Ashley Plut, Witness

Leonard E. Peters
LEONARD E. PETERS, Witness

SUBSCRIBED and SWORN TO BEFORE ME by ELMER WAYNE BRUNNER, Testator, and subscribed and sworn to before me by the said Ashley Plut and LEONARD E. PETERS, Witnesses, this the 27 day of January, 2015.



Sylvia Ann Huebel
Notary Public, State of Texas

Prepared By:
Leonard E. Peters
Attorney at Law
P.O. Box 247
Columbus, Texas 78934
Tel: (979) 733-0126

EWP